

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

RAPHAEL R. CALHOUN,

Petitioner,

v.

JULIE LYNCH, *et al.*,

Respondents.

Case No. 2:24-cv-1609

Judge James L. Graham

Magistrate Judge Peter B. Silvain, Jr.

ORDER

This matter is before the Court for consideration of the August 30, 2024 Report and Recommendation of Magistrate Judge Silvain. Magistrate Judge Silvain recommended that Plaintiff's *pro se* petition for a writ of habeas corpus (ECF No. 1) be dismissed without prejudice because Plaintiff's claim was not properly brought under a pretrial § 2241 petition and Plaintiff has failed to exhaust his state remedies. (ECF No. 12 at 7). Magistrate Judge Silvain further recommended that a certificate of appealability would not be proper and that any application by Plaintiff to proceed on appeal *in forma pauperis* would not be taken in good faith. (*Id.* at 7-8).

The Report and Recommendation specifically advised the parties that failure to object to the Report and Recommendation within fourteen (14) days “will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation.” (ECF No. 12 at 9). The deadline for filing objections to the Report and Recommendation has since expired, and no party has objected to the Report and Recommendation.

The Court agrees with Magistrate Judge Silvain's Report and Recommendation (ECF No. 12), and it is hereby **ADOPTED**. Plaintiff's petition for a writ of habeas corpus (ECF No. 1) is hereby **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

DATE: September 18, 2024

/s/ James L. Graham
JAMES L. GRAHAM
United States District Judge